

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ISHMAEL JOHNSON,  
Petitioner,

No. C-13-0506 EMC (pr)

v.

**ORDER RE SUPPLEMENTAL  
EVIDENCE**

GARY SWARTHOUT, Warden,  
Respondent.

Respondent has moved to dismiss the petition for writ of habeas corpus on the ground that it was not filed before the expiration of the habeas statute of limitations period. Petitioner has opposed the motion and argued that the lateness of his petition should be excused because there was a delay in his receipt of materials from counsel, he was separated from his trial transcripts and other property for a couple of months in 2012, and was in prisons in which there were “a series of prison lockdown[s]” that affected him in unstated ways. Docket # 11 at 2. Petitioner provided no declaration (*i.e.*, a statement made under penalty of perjury) or other evidence to support his arguments. Even if the statements had been made in a declaration, they are overly broad and lacking in some necessary details.


The Court now allows Petitioner an opportunity to provide evidence in support of his arguments that the statute of limitations period should be equitably tolled. Petitioner may file a declaration signed under penalty of perjury and may submit any other evidence he has to explain why he should receive equitable tolling of the statute of limitations period. With regard to his assertion that he did not receive all his materials from counsel in a timely manner, he must state the

1 date(s) on which he requested the materials from counsel and the date(s) on which counsel provided  
2 the requested materials. With regard to his assertion that he was subjected to prison lockdowns, he  
3 needs to explain when the lockdowns occurred, how long each of the lockdowns lasted, and whether  
4 a paging system was available to obtain law library materials during the lockdowns. All  
5 supplemental evidence must be filed and served on or before **January 24, 2014**. No extensions of  
6 this deadline should be expected because the requested information should have been provided with  
7 the original opposition brief and does not require a visit to any law library for legal research.

8 If Petitioner files supplemental evidence, Respondent must file and serve any reply brief no  
9 later than **February 7, 2014**.

10  
11 IT IS SO ORDERED.

12  
13 Dated: December 20, 2013

14  
15   
16 EDWARD M. CHEN  
17 United States District Judge  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28